IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.19102 of 1995

Dated: October 17, 2006

Between:

K. Madhava Rao, S/o. Sri K. Poornachandra Rao, Aged about 40 years, Occ: Business, Resident of Eluru, West Godavari District, and another.

... Petitioners

And

The State of Andhra Pradesh, rep. by its Principal Secretary to Govt., Industries and Commerce Department, Secretariat Buildings, Saifabad, Hyderabad, and others.

... Respondents

Order:

This Writ Petition has been filed questioning the action of the respondents in collecting cess on the amount paid by the petitioners towards leases held by them for quarrying sand during the year 1991-92.

2. Heard learned counsel for petitioners and learned Government Pleader appearing for the respondents.

3. The State Government was holding auctions for leasehold rights for quarrying sand with regard to perennial sources such as rivers Godavari and Krishna and also non-perennial sources. Petitioner No.1 was the highest bidder for Reach No.15 B between Kms.8/0 to 16/0 of Akhanda Godavari Right Bank, near Kovvuru in West Godavari District, at Rs.5,39,500/-. He paid 25% of the bid amount along with 37% of cess, i.e. Rs.49,904/- by way of a Demand Draft. Petitioner No.2 was the highest bidder for Reach No.4 between Kms.8/0 to 11/0 of Tammileru and Reach No.5 between Kms.11/0 upto Dhammajigudem village, Eluru Mandal and Peddavegi Mandal. He paid an amount of Rs.57,223/- towards 37% of cess. They seek refund of the amount collected by the Stage Government from them towards cess.

4. Learned counsel for petitioners submits that the subject matter of the Writ Petition is covered by orders of this court in *W.P.No.12507 of 1986 dated 20-09-1991 and also W.P.No.1671 of 1990 dated 29-06-1990.*

5. Though no counter affidavit has been filed by the respondents, learned Government Pleader admits that the subject matter is covered by the orders of this court referred above.

6. Following the ratio laid down in the aforesaid orders of this court, I dispose of the Writ Petition directing the respondents to refund an amount of Rs.49,904/- to Petitioner No.1 and Rs.57,223/- to Petitioner No.2, which was collected from them towards cess on the lease granted in their favour for quarrying sand during the year 1991-92. The aforesaid amount shall be refunded to the petitioners within four months from the date of receipt of this order. No order as to costs.

JUSTICE R. SUBHASH REDDY.

October 17, 2006
MRR